IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE DHARMA RAO ELIPE

WRIT PETITION NOS: 6992 OF 2000 & 3526 OF 2002

WRIT PETITION NO: 6992 OF 2000

Between:

B.Narayana son of B. Kistayya, Aged about 52 years,

Extension Officer (pts) Patancheru, Medak Dist.

..... PETITIONER

AND

1. The Commissioner for Panchayath Raj and Rural Employment, Himayathnagar, Hyderabad.

2. The Collector, Medak Dist. At Sangareddy.

3. Government of A.P., Panchayath Raj and Rural Development Department, Represented by its Secretary, Secretariat, Hyderabad.

4. The Andhra Pradesh Administrative Tribunal, Represented by its Registrar, Puranihaveli, Hyderabad.

5. V.Sudershan, Executive Officer, Grade – I,
Ghatkesar Gram Panchayath, Rangareddy Dist.
6. M.Subba Rayudu, Executive Officer, Grade – I,
Gadda Potharam village, Jannaram Mandal,
Medak Dist.
7. BLC Koundinya, Executive Officer, Grade – I,
C/o: Dist. Panchayath Officer, Medak At Sangareddy.
8. K.Bhooma Lingam, Executive Officer, Grade – I,
Narsapuram Gram Panchayath, Medak Dist.
9. R.Satyanarayana, Executive Officer, Grade – I,
Gram Panchayath Veldurthy, Medak Dist.
10. D.Venkata Ramana Chary, Executive Officer, Grade – I,
Gram Panchayath, C/o:Dist. Panchayath Officer, Nizamabad.
11. K.Jagadeswar, Mandal Parishad Development Officer,
C/o: Commissioner for Panchayath Raj and Rural
Employment, A.P., Hyderabad.
12. K.Hanmandlu, Mandal Parishad Development Officer,
C/o: Commissioner of Panchayath Raj and Rural
Employment, A.P., Hyderabad.
13. P. Prabhakar Reddy, Executive Officer, Grade – I,
Gram Panchayath, Kazipally, Medak Dist.
14. T.Satyanarayana, Executive Officer, Grade – I,
C/o: District Panchayath Officer, Nalgonda
15. R.Pandu, Executive Officer, Grade – I,
C/o: District Panchayath Officer, Nizamabad.
16. C.Sangappa, Extension Officer (Pts),
Zaheerabad, Medak District.
17. G.Shankaraiah, Mandal Parishad Development
Officer, Narsapur, Medak District.
18. M.Parvaiah, Extension Officer, Gram Panchayath,

Sattapur, Ranjal Mandal, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari calling for the records relating to the impugned proceedings No.16910/CPR.B3/94 dated 12.8.1996 issued by the Commissioner for Panchayath Raj and Rural Employment, A.P., Hyderabad, and the judgment of the A.P. Administrative Tribunal in O.A. No.5684 of 1996 dated 9.11.1999 and quash the same as being illegal, arbitrary, discriminatory, unjust, irrational and subversive of Articles 14, 16 and 21 of the Constitution of India and pass such other order or orders, as this Honourable Court deems fit and proper.

Counsel for the Petitioner: MR.D.LINGA RAO

Counsel for the Respondent No. 1 to 3: GP FOR SERVICES I

Counsel for the Respondent No. 16: MR. D.GOVERDHANA CHARY

WRIT PETITION NO : 3526 OF 2002

Between:

M.Parvaiah s/o Narayana, Aged 52 years,

Occ: Extension Officer (Panchayath),

Nalgonda, C/o: E. O. Panchayath, Nalgaonda

..... PETITIONER

AND

1. The Government of Andhra Pradesh,

Represented by its Secretary, Panchayath Raj and

Rural Development, Secretariat, Hyderabad.

2. The Commissioner for Panchayath Raj and

Rural Development, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or writs, order or direction,

declaring the impugned proceedings No. 16910/CPR.B/94 dated 12.8.1996 as illegal arbitrary, without jurisdiction and violative of Presidential Order and Articles 14 & 16 of the Constitution of India and set aside the judgment of Hon'ble A.P. Administrative Tribunal in OA No. 7012 of 1996 dated 9.11.1999 and consequently direct the respondent to fix seniority of the petitioner in the category of Executive officer Grade – I from the date of juniors of the petitioner promoted to the post of Executive Officer Grade II and extend all the benefits under GO Ms. No. 564 dated 11.9.1990 and to pass such other order or orders, as this Honourable Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondent No.: .G.P. FOR SERVICES - I

The Court made the following COMMON ORDER:

(*per* the Honourable Sri Justice Dharma Rao Elipe)

Aggrieved of the impugned proceedings No. 16910/CPR.B/94 dated 12.8.1996 issued by the second respondent revising the seniority list of the Extension Officers, Grade – I, Gram Panchayath of Zone 6, in terms of the judgment of the A.P. Administrative Tribunal, Hyderabad Bench, (for brevity the Tribunal) in a Batch of Original Applications dated 9.11.1999, whereby the Tribunal has refused to revise the seniority list of the Extension Officers, Gram Panchayaths, these writ petitions are filed.

Since the issue involved in both these writ petitions is one and the same, they are being disposed of by this common order.

The petitioners herein are working as Extension Officers at Patancheru, Medak District and Nalgonda respectively. Originally, the petitioners in both these writ petitions were appointed as LDC and rose to the post of Executive Officer. The grievance of the petitioners herein is that without considering the objections, the second respondent prepared seniority list in the cadre of Junior Assistants and their juniors were placed above them and promoted as Extension Officers in Zone 6. While the matters stood thus, the second respondents issued proceedings No. 16910/CPR-B/94 dated 12.8.1996 publishing the confirmed seniority list of the Executive Officer Grade – I, in the Panchayath Raj Department, zone 6, which was assailed in a batch of O.As. and the Tribunal delivered the impugned judgment on 9.11.1999. As can be seen from the records, Writ Petition No. 6992 of 2002 was filed on 24.4.2000. The petitioner is expected to assail the correctness or otherwise of the order of the Tribunal within a reasonable time, but evidently, the petitioner, without any explainable delay, took three years to invoke the jurisdiction of this court. Therefore, on that score itself the writ petition is liable to be dismissed. But since, we

heard the matter at length along with writ petition No. 3526 of 2002, this common judgment is being delivered.

As stated earlier the petitioner B.Narayana was appointed as Junior Assistant on 5.11.1973 and subsequently promoted as Executive Officer Grade II by virtue of proceedings 21.11.1978 and his services were regularized and thereafter he was promoted as Executive Officer Grade – I by proceedings dated 13.12.1989. The said posts in Telangana Area is regulated by GO Ms. No. 196 dated 9.3.1971. The petitioner was promoted as Extension Officer on 31.12.1994 and the respondent prepared a provisional seniority list of Extension Officer in Zone VI by Memo dated 5.12.1997 and his name was shown as Sl. No. 22. Subsequently, the respondent issued seniority list of the Executive Officers Grade I, Gram Panchayats, Zone VI vide Memo dated 16.12.1994 showing the name of the petitioner at Sl. No.6, altering the seniority of the petitioner and placed at Sl. No. 46 in the Cadre of Executive Officer Grade I by the proceedings Dated 12.8.1996, impugned before the Tribunal, which upheld the same. Therefore, the petitioner has come up with the writ petition No.6992 of 2000 assailing the revision of seniority list.

The Tribunal after clubbing several original applications filed by different employees right from the year 1992 to 1998, including the petitioners herein, delivered the judgment on 9.11.1999.

As can seen from the material available, the petitioners did not furnish the material particulars in their affidavits, apart from the fact that they did not file copies of the original applications and the counters filed by the respondent in the O.As.

The Government, for the first time provincialised the services of the Executive Officers of Gram Panchayaths by issuance of GO Ms. No. 64 Panchayath Raj Department dated 6.2.1981 in the State and framed Rules thereunder called the Andhra Pradesh Panchayath Raj (Executive Subordinate) Services Rules by issuance of GO Ms. No.298 Panchayath Raj (Estt.VII) Department dated 4.5.1983 and prior thereto, they were governed by the Regulations issued in GO Ms. No. 1136 LA dated 11.8.1966. GO Ms. No. 1136 dated 11.8.1966, recruit to the post of Executive Officer Grade II in Telangana Area shall be from among those in service of the State Government, those in service of Gram Panchayath, Panchayath Samithis or Zilla Parishads and they musts have passed matriculation or SSLC and should have been declared eligible for college course or equivalent thereto or

should have obtained minimum required marks for selection to the ministerial post under the State Government. It is also one of the requirements that they must have completed five years of service in the post from which they are to be recruited. After provincialisation of the posts, for the first time, the government framed Service Rules for the Executive Officers of Gram Panchayaths by issuance of GO Ms. No. 298 Panchayath Raj Department dated 4.5.1983, in supersession of all the earlier Rules, Regulations, etc. As per the said Rules, Gram Panchayath Grade – I, comes under Category 3, while Executive officers Gram Panchayaths Grade II, fell under Category 4 and the Junior Assistants-cum-Bill Collectors and the Junior Assistants of Gram Panchayaths are one of the feeder categories for promotion to the post of Executive Officer, Gram Panchayaths, Grade – II and further subject to the condition that they should have put in a minimum of five years of service in the respective category and must have passed the Accounts Test for Local Bodies or any other equivalent test. Rule 5 of the Rules further mandates passingof Accounts Test for Local Bodies or any other equivalent test for appointment by transfer to the post of Executive Officers, Gram Panchayath, Grade – II. It is the case of the respondents that when the petitioners and others, who were working in the Gram Panchayath in Telangana Area, inspite of the sufficient time given for passing the Accounts Test when they could not acquire the said qualification, the Government by issuance of GO Ms. No. 314 Panchayath Raj Department dated 12.7.1984 have relaxed Rule 5and granted time for acquiring the prescribed Accounts Test for a period of 2/3 years, in any case before 4.5.1986 and made it clear that such of those employees who fail to pass the said Test, are liable to be reverted.

It is the admitted case that both the petitioners in both the writ petitions have not passed the said test, as contemplated by Rule 5 and relaxed under GO Ms. No. 314 Panchayath Raj Department dated 12.7.1984 within the stipulated time i.e. before 4.5.1986. Therefore, they have rendered themselves liable for reversion. The contention that they have passed test subsequently i.e. after the cut off date and therefore, they must be retained in their original seniority cannot be countenanced, inasmuch passing the test subsequently cannot tantamount to fulfilling the conditions of GO Ms. No. 314 dated 12.7.1984. Though it is stated by the petitioner that they have passed the qualifying tests within the prescribed period and they are not liable for reversion, but they were reverted, they have not given the date as to

when they have passed the qualifying test.

Evidently, under Rule 6 of the Services Rules, the Commissioner of Panchayath Raj is the appointing Authority in respect of the Executive Officers, gram Panchayath and under Rule 11 the Service Conditions relating to the regularization, probation, promotion, etc. of the Executive Officers of Gram Panchayatah appointed during the period from 18.1.1964 to 5.2.1981 in the Telangana Area shall be regulated according to the principles contained in the Rules. The Commissioner, Panchayath Raj, vide proceedings dated 29.1.1990 issued orders reverting such of the Executive Officers, appointed between the said dates and who have not passed the Accounts Test for Local Bodies to their feeder categories. Aggrieved of the same, they approached the Government as well as the Tribunal and the Government issued GO Ms. No. 564 Panchayath Raj Department dated 11.9.1990 relaxing the rigor of Rule 5(4)(c) of the Rules issued in GO Ms. No.298 dated 3.4.1983 in favour of the Executive Officers of the Gram Panchayath, who were appointed as Executive Officer prior to issuance of the said Rules. Subsequently, the Government reviewed the position in consultation with the Commissioner, Panchayath Raj and relaxed the order issued in GO Ms. No. 564 dated 11.9.1990, subject to certain conditions. It is observed by the Tribunal that the petitioners who are not eligible for promotion have approached the Tribunal and obtained interim orders to consider their cases for promotion to the post of Executive Officer, Gram Panchayath Grade – I, even without acquiring the qualification prescribed under the Rules issued in GO Ms. No. 298 and a provisional seniority list of Executive Officers Grade – I of Zone VI, was prepared and communicated by Memo dated 19.9.1994 calling for objections. Appeals were filed for restoration and regularization of seniority in the cadre of Executive Officers Grade – II as well as in the cadre of Executive Officer Grade – I. After considering the objections, a revised provisional seniority list of Executive Officers, Grade – I was prepared and communicated vide Memo dated 16.12.1994 calling for objections if any and after considering the objections received from some of the affected parties, it was confirmed vide proceedings dated 7.9.1995, however, subject to the outcome of results of Original Application Nos. 55125 to 128 of. 1990, 2399/92, 41581 to 584 of 1990,43292 of 1990, 6707 of 1993, 2398 of 1992, 5749 of 1995, 4041 of 1995, 3699 to 3800 of 1995 and 5164 of 1995. Some of the Executive Officers, Grade I, approached the Government and in terms of the orders of the Government, the confirmed Zonal Seniority List of Zone – VI was kept in abeyance and detailed report has been submitted to the Government by the Commissioner, Panchayath

Raj, vide their letter dated 16.4.1996. After reviewing the entire matter, the Government issued orders in Memo No. 51392/Estt. I.A dated 26.7.1996 to regulate the seniority first in the cadre of Executive Officers Grade II strictly in accordance in respect of passing the Accounts Test within the stipulated time in terms of GO Ms. No. 3124 dated 12.7.1984 and GO Ms. No. 458 Panchayath Raj & Rural Development Department dated 14.9.1993. The entire matter was reviewed in the light of the Service Rules and the instructions issued by the Government, the seniority list of Executive Officers Grade – I of Zone VI was finalized and communicated in proceedings No. 16910/CPR/B/94 dated 12.8.1996.

It is this order, fixing the seniority list of Executive Officers Grade – I of Zone VI, the petitioners have approached the Tribunal.

As can be seen from the fact and circumstances of the case, admittedly, the petitioners have not passed the Accounts Test, as contemplated under Rule 5. But the Government, from time to time, have been granting relaxation and under GO Ms. No. 314 dated 12,7,1984, the Government prescribed Accounts Test Qualification for a period of 2/3 years and in any case they were required to pass the same before 4.5.1986. However, those who have not passed the same were continued as Executive Officers, by virtue of the interim orders passed by the Tribunal. As can be gathered from the material placed on record and as can be seen from the judgment of the Tribunal, the petitioners were already promoted to the post of Extension Officers taking into considerations their subsequent passing of the Accounts Test. At the given point of time, when the petitioners were not eligible for holding the post of Executive Officers Grade – II and their juniors have passed the test and became eligible for promotion, they were promoted, as such the petitioners cannot make any claim over such juniors who were promoted having become eligible. At the cost of repetitions, it must be observed that though the petitioners are not having requisites qualifications for the post of Executive Officer, Grade – I, yet they continued as such, by virtue of the court orders. As such they cannot claim any seniority over such of those juniors who were promoted having become eligible for promotion.

The Tribunal further observed that a reading of the impugned proceedings dated 12.9.1986 makes it clear that the Commissioner, Panchayth Raj, issued the said proceedings having regard to the irregular proceedings passed by the Collectors and the continuation of ineligible employees in service, on administrative

reasons, and also keeping in view the principle of relaxing the fixation of seniority in such cases in terms of GO ms. No. 564 dated 11.9.1990. Therefore, the petitioner in WP No. 6992 of 2000 is not entitled to reckon his service for seniority for promotion to the post of Extension Officer, Pancnayaths, in view of GO Ms. No. 564 dated 11.9.1990, more particularly in the absence of any individual relaxation being given in favour of the petitioners. That apart, the seniority list was prepared as per the direction of the Tribunal. Therefore, the Tribunal is justified rejecting the relief claimed by petitioners. We do not find any illegality committed by the Tribunal in rejecting the claim of the petitioners.

Now adverting to decisions referred by the learned counsel for the petitioners in *M.Shyam Sunder and others Vs. Govt. of A.P., Transport, R & B Department and others ()*, *Narravula Kotam Raju V. Regional Deputy Director of Fisheries, Kakinada and others ()* and *M.Bucha Reddy V. V.Bhagyamma and others ()*, there is no dispute that the inter se seniority shall be governed by the Rules existing at the relevant point of time and the seniority once fixed cannot be reopened after a long lapse of time by reason of subsequent amendment to relevant Rule or insertion of new Rule. The principles laid down in the above decisions can hardly be made applicable to the facts and circumstances of the case, for the reason that as stated earlier, the petitioners did not qualify the Accounts Test before the cut off date, even after the period was extended by the Government. No doubt, it is true that the petitioners continued as Executive Officers, but on the orders of the Tribunal. Therefore, they cannot contend that their seniority in the said post should be reckoned on par with others who became eligible for promotion prior to the petitioners herein. The ratio laid down in the above decisions, has no relevance to the facts and circumstances of the case.

Having gone through the entire material available on record, we are of the considered view there is no merit in the writ petitions. The writ petitions accordingly fail and are dismissed. No order as to costs.

Bilal Nazki, J.

Dharma Rao Elipe, J.

July 5, 2004

MAS.

To

1. The Commissioner for Panchayath Raj and Rural Employment, Himayathnagar, Hyderabad.

2. The Collector, Medak Dist. At Sangareddy and Nizamabad

3. The Secretary to the Govt. of A.P., Panchayath Raj and Rural Development Department, Secretariat, Hyderabad.

4. The Registrar, Andhra Pradesh Administrative Tribunal, Puranihaveli, Hyderabad.

5. One Copy to G.P. for Services – I (OUC)

6. 2 CD copies.